

presented in the original claims or the amended claims.

Applicant's response: ***"This Applicant respectfully submits that Applicant's original intent of 01/05/04 was to describe a useful method, and not a new structure as a method of significantly increasing storage capacity for retention of pencil shavings. The invention is a method and a new use not possible in the art until the recent advent of recyclable plastic soda bottles. The original specification shows, that by combining two well known devices, the hand held mechanical pencil sharpener and the screw-threaded bottle cap closure, a new and useful method of increasing storage of wood pencil shaving debris is invented and although the applicant describes structure, the intent is to show how the combination significantly improves efficiency for class room teachers This Applicant is a full time school teacher and understands class room needs and that the original specification and abstract, although not perfect, is not intended to be an additional structure, but rather to represent a single invention through the new use by combining two well known products, the screw threaded soda bottle cap closure and the hand-held mechanical pencil sharpener.***

The applicant needs further recommendations or assistance from the Examiner for content and form in order for the original specifications to be in compliance and allowable Please see the following references from original specification and applicants intent to describe a method and new use for two well know products below:

1 Field of Invention-page 1 of original specification, "a pencil sharpener bottle cap combination, for use in elementary school classrooms that fits onto any conventional plastic beverage container to facilitate a new, useful and readily available pencil shaving receptacle, that is easily manipulated by small hands, with large capacity for storage of pencil shavings, that both sharpens wood encased pencils and stores the pencil shavings, that is inexpensive to manufacture recyclable and easily disposed of properly. (2.) Description of Prior Art – paragraph 1, "This normal sharpening process accumulates shavings and dust (collectively "shaving"), which are typically trapped within the housing, (housing may or may not have a shavings receptacle), and periodically discarded by the user when full. Paragraph 4, " In a cup or drawer arrangement, spillage of the shavings is likely when the cup or drawer is removed due to over filling of the cup or drawer with shavings" In a faceplate arrangements, the shavings are particularly difficult to control and the spillage frequently occurs with any amount of shavings. Paragraph 5, "Typically, upon disengagement of the shavings receptacle, or during storage, the cup, or drawer (collectively "receptacle") is lost and the user, unable to locate the original receptacle, resorts to other makeshift means of shavings retention such as a small cardboard box particularly in motorized models or the use of one's own cupped hands to secure the shaving as they drop down or the user simply stands over a nearby wastebasket and allow debris and pencil dust. (shavings) to freely fall into a waste container where ultimately, much of the pencil shavings mess the container and fall unto the floor. Paragraph 5, page 2, "... different pencil sharpener configurations ...user's

unfamiliarity...contributes to ...spillage. Spilled shavings ... cause stains that are difficult to clean, and therefore, require continual clean up as is so typical in elementary school classroom situations. (3.) Brief Summary of Invention: Paragraph 8, "...a necessary component of elementary school classroom...Pencil supply and maintenance is a daily concern for teachers as major learning time is lost sharpening them, cleaning up debris..." Paragraph 9, "Therefore...Invention provides a new "screw-threaded cap" configuration as an Integral part...creating a new and useful...receptacle from any conventional plastic beverage container...Increased storage...easily manipulated by small hands...recyclable, environmentally friendly..." Paragraph 9, "not present in prior art pencil sharpeners, rendering this configuration particularly useful in elementary school classrooms where large volumes of wood encased pencils are sharpened daily." Paragraph 9, page 3, "the user can easily observe capacity due to the transparent nature of the plastic...enabling accurate visual determination of accumulation...reducing the possibility of spillage..." Paragraph 10, page 3, "particularly useful ...in elementary school classrooms...common on practice for storage of various school supplies...accepted means for storage of "desk-side" drinking water...common to students...available in abundance..."

2. Newly submitted claim 5 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Applicant's response: "This Applicant's original intent in the specification and abstract, although not perfect, intended to represents a single invention as described in claim 5 and respectfully requests further assistance, if at all possible, from the Examiner in order for the original specification to be allowed."

a. The apparatus of the original claim could perform a method featuring a hollowed box type structure instead of the hollowed cylinder.

Applicant's response "This applicant agrees with Examiner that the "apparatus of the original claim could perform a method featuring a hollowed-box type structure instead of a hollowed cylinder, but the applicant's preferred embodiment is cylindrical as stated in original specification. The shape , whether rectangular, angular, spherical or a hollowed cylinder makes little difference to this applicant and although the preferred configuration is cylindrical, the Applicants intent is to show a new use product, because of the combination, not because of the shape and therefore, requests assistance from the Examiner and will make any changes as ordered by the Examiner wherever needed in order to bring the document into full compliance for acceptance."

b. The original claims failed to disclose any structure of the apparatus.

Applicant's response: "The original claims 1-4 are admittedly not correct,

as stated under 7. (a) resulting in their cancellation. Therefore, the Examiner's previous recommendations on 10/17/05 under 35 USC 112, 35 USC 102, and 37 CFR 1.126 for Applicant's further study did result into the creation of the new claim 5. correctly claiming the Applicant's original invention in terms of a method of combining bottle cap closure and mechanical hand-held pencil sharpener to create a new and useful product that will make life easier for the class room teacher, a benefit formerly not considered until recent technology advances in plastic soda bottle recycling in the (P.E.T plastic recyclable Polyethylene Terephthalate) process opening the way for the Applicant's invention to increase storage capacity for wood pencil shavings debris using plastic recyclable soda bottles, to make life easier for the class room teacher and student.

c. Since applicant has received an action on the merits for the originally presented invention this invention has been constructively elected by original presentation for prosecution on the merits

Applicant's response: "This applicant respectfully requests of the Examiner any recommendations for changes as ordered by the Examiner wherever needed in order to bring the specifications into compliance for acceptance."

d. Accordingly, claim 5 would be withdrawn from consideration, if the amendment were to be entered, as being directed to a non-elected invention.

Applicant's response: "The Applicant respectfully submits that the original intent of the specification s to show a new use, because of the combination, not because of the shape. "The original claims have been canceled as per advice from the examiner and admittedly not what the applicant intended, and the claims 1-4 were canceled (claims 1-4) as stated under 7. (a) below and have been replaced with new claim 5. Therefore, the Examiner's previous recommendations on 10/17/05 under 35 USC 112, 35 USC 102, and 37 CFR 1.126 for Applicant's further study did result into the creation of the new claim 5. correctly claiming the Applicant's original invention in terms of a method of combining bottle cap closure and mechanical hand-held pencil sharpener resulting into a new and useful product not considered earlier until this applicant's invention using recyclable plastic technology (P.E.T plastic recyclable (Polyethylene Terephthalate) process which opened the way for the Applicant's invention to increase storage capacity for wood pencil shavings debris using plastic recyclable soda bottle, a concept and practice well known

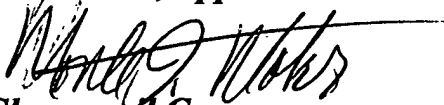
among teacher's and their class room students.

7. For purposes of appeal, the proposed amendments(s): a) will not be entered. The status of the Claim(s) is as follows: Claims rejected: 4.

Applicant's response: *"This Applicant respectfully submits that original specification and abstract, although not perfect, can be accepted and with appropriate changes as per Examiners recommendations, applicant's invention, as described in claim 5, can be allowed.*

Very respectfully,

Monte D. Mohr, Applicant



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